

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

NATHAN SOMMER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:20-cv-00069
)	
DOVER CORPORATION,)	
)	
Defendant.)	
)	

NOTICE OF REMOVAL

Defendant, Dover Corporation (“Defendant” or “Dover”), by counsel, serves notice of removal of this state court action, from the Jefferson County Circuit Court in the State of Indiana, where it is currently pending, pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, to the United States District Court for the Southern District of Indiana, New Albany Division, and states the following in support of such removal:

I. Timeliness of Removal

1. On or about February 26, 2020, Plaintiff Nathan Sommer (“Plaintiff”) filed a civil action against Defendant in the Jefferson County Circuit Court, Case No. 39C01-2002-PL-00174. A copy of the state court record is attached as Exhibit A, as required under 28 U.S.C. § 1446(a).

2. Defendant was served with the Complaint on March 2, 2020, by certified mail.

3. Accordingly, Defendant is timely filing this Notice of Removal within 30 days after service of process, as required by 28 U.S.C. § 1446(b).

II. Venue

4. The Jefferson County Circuit Court is located within the New Albany Division of the United States District Court for the Southern District of Indiana. 28 U.S.C. § 94(b)(1).

Therefore, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

III. Basis for Removal: Federal Question Jurisdiction

5. This action is properly removable under 28 U.S.C. § 1441(a), because the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331, which provides that “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

6. Plaintiff’s Complaint alleges that Defendant discriminated and retaliated against him on the basis of his perceived disability in violation of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and on the basis of his veteran status in violation of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 *et seq.*.

7. By asserting claims under federal law, Plaintiff’s Complaint asserts a federal question under 28 U.S.C. § 1331. Accordingly, this case is properly removable under 28 U.S.C. § 1441(a).

IV. Conclusion

8. In accordance with 28 U.S.C. § 1446, copies of this Notice of Removal will be promptly served upon counsel for all adverse parties and filed with the Clerk of the Jefferson County Circuit Court. A copy of Defendant’s notice of filing to the state court is attached hereto as Exhibit B.

9. By removing this matter, Defendant does not waive or intend to waive any defense, including but not limited to insufficiency of process and insufficiency of service of process.

WHEREFORE, Defendant respectfully requests that this Court take jurisdiction of this action and issue all necessary orders and process to remove it from the Jefferson County Circuit

Court to the United States District Court for the Southern District of Indiana, New Albany Division.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: s/ Lucy B. Bednarek
Lucy B. Bednarek, #34968-49
Andrew J. Maloney, #35302-32
111 Monument Circle, Suite 4600
Indianapolis, IN 46204
Telephone: (317) 916-1300
Facsimile: (317) 916-9076
lucy.bednarek@ogletree.com
andrew.maloney@ogletree.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be served on the below counsel of record by U.S. first-class mail, postage prepaid:

Christopher K. Starkey
406 S. Harrison Street
Shelbyville, IN 46239
starkeyCK@msn.com

s/ Lucy B. Bednarek

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
111 Monument Circle, Suite 4600
Indianapolis, IN 46204
Telephone: 317.916.1300
Facsimile: 317.916.9076
lucy.bednarek@ogletree.com